

<b>POLICE/SHERIFF'S DEPARTMENT</b>		<b>GENERAL ORDERS</b>	
<b>SUBJECT: Informants</b>		<b>NUMBER: 2-11</b>	
<b>EFFECTIVE DATE: July 1, 1999</b>		<b>REVIEW DATE:</b>	
<b>AMENDS/SUPERSEDES: GO 2-11, January 1988</b>		<b>APPROVED: _____ Chief of Police/Sheriff</b>	
<b>CALEA STANDARDS: 42.2.9</b>		<b>VLEPSC STANDARDS: OPR.02.06</b>	

## **NOTE**

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

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## **INDEX WORDS**

Entrapment  
Informants

## **I. POLICY**

The department encourages the development and use of informants. The proper legal use of an informant can greatly assist in obtaining vital information that may be used in any investigation. Informants serve the interests of this department when they are properly managed through a file system that maintains information on their reliability and history. Files not only provide the department with key information in assessing an informant's reliability, but they detail the informant's history and furnish a means of supervisory review of the information. Supervisors may use the files to handle any controversies in which the integrity of department personnel has been questioned.

## **II. PURPOSE**

The purpose of this order is to set forth procedures to help members of the department develop and effectively use informants and the information obtained.

## **III. DEFINITIONS**

A. Informant:

For purposes of this order, an informant is anyone who, under guidance of a department officer, provides useful information concerning crime including vice, organized crime, or intelligence, with or without the expectation of compensation or reward. Usually, a reward means monetary payment, assisting the commonwealth's attorney or the courts, or simply the satisfaction of a personal need to contribute to the improvement of the neighborhood.

B. Entrapment:

Entrapment occurs where the informant encourages, persuades, or otherwise motivates a person to commit a crime.

#### IV. PROCEDURES

A. General:

1. Any person who provides information is a potential informant within the definition of III.A. In many cases, useful information will flow as a result of friendly, courteous conversations and questioning, by building rapport, by providing efficient law-enforcement service, and by just listening and talking.
2. In developing informants, officers shall ensure confidentiality of informant identities and transactions and shall observe lawful accountability.
3. Officers shall not make any deals with people concerning charging, pleading, or sentencing. Officers may, however, consult with the commonwealth's attorney regarding these matters.
4. Informant information may become the basis for a variety of legal and police processes. The officer shall carefully consider the possibilities of being required to identify an informant in the courtroom, possibly placing the informant in jeopardy.
5. Informants are not law-enforcement officers and have no arrest powers and are not permitted to conduct searches and seizures. Informants receive no special legal exemptions and they shall be arrested if they commit crimes.
6. No employee shall knowingly maintain a social relationship or become personally involved with an informant. No employee shall solicit, accept gratuities, or conduct any business transaction with an informant. ***[Note: These restrictions would apply under most circumstances. However, an informant might be an employee's relative, friend, or spouse. Agencies should tailor restrictions with these relationships in mind.]***
7. When feasible, officers shall have witnesses to their transactions with informants. Whenever an informant receives pay for information, informants

shall sign a receipt for money and another officer shall witness the transaction.

8. No juvenile shall be used as an informant without the written permission of his or her parent or guardian.
9. Officers shall tell informants that confidentiality cannot be guaranteed.

B. Identity of informants:

1. Each officer who wishes to develop and use an informant shall prepare a confidential file on him or her according to the following requirements. The investigative supervisor shall develop and maintain master informant files.
  - a. On the front of the file, place the following information: officer's name and badge number and the informant's number, which is the officer's badge number followed by an alphabetic letter, A for first informant, B for the next, C for the next, etc. If the informant is a juvenile, write the word "Juvenile" on the file.
  - b. Prepare or collect the following and place the following documents inside the file:
    - (1) Biographical and background information including name, date of birth, physical description, marital status and number/names of children, aliases, residential addresses for the past five years, telephone number, known acquaintances, habits, current employer (and position, address, telephone number), and associated vehicles.
    - (2) Criminal history record, if any, photograph, and fingerprints.
    - (3) Information the informant has or can be expected to provide.
    - (4) Record of any payments made.
    - (5) Degree of involvement of informants in any operation, including an update on the active or inactive status of the informant. Any information on the **unreliability** of the informant shall be included.
  - c. The officer shall give the informant file either to the investigative supervisor or the chief of police/sheriff, who will then put it into the safe. Access to the file shall be restricted to the chief of police/sheriff, the investigative supervisor or their designees.

2. The informant files shall not be opened unless an emergency arises which makes it essential to identify people. In this case, the chief of police/sheriff authorizes disclosure of information. Files shall be released only to the officer preparing the file or in response to a subpoena.
3. Once an informant file has been prepared, all future references to the informant in any reports shall be by informant number only. Informant names shall not be used.
  - a. Debriefs of informants shall be committed to a memorandum to file.
  - b. **Any** contact with an informant shall be documented.
4. Two or more officers may develop the same person as an informant. Each officer shall develop a separate informant file and assign an informant number.
5. Once the informant file has been prepared, the officer is responsible for keeping the file current. The officer requests the numbered file from the chief/sheriff, places the additional information within, and returns it.
6. Informant files can be retained indefinitely, but officers are encouraged to keep only active informants on file.
7. Officers may retain their own duplicate informant files but shall be responsible for file security.

C. General use of informants:

1. Informants who participated in offenses must be willing to testify in court.
2. Officers shall deal with informants very carefully and with circumspection, particularly with those of a different sex or whose sexual preferences may make an investigation susceptible to compromise.
3. Use of juvenile informants is particularly sensitive so officers must obtain parental permission and shall consult with the commonwealth's attorney or juvenile court personnel.
4. The chief of police/sheriff can advise on the availability of funds to pay informants.

***[Note: Insert here your agency's procedures for accounting for and disbursing confidential funds to informants. Agencies should consider the tax consequences as well. In court, informants may be asked if they paid taxes on the money they received for information. Address taxes in your agency's procedures.]***

D. Legal uses of informants:

Specific legal guidelines exist regarding the use of informants. The following points are offered to help officers judge the usefulness of their informants. See GO 2-1 and GO 2-2 for more details on the legal use of informants.

1. If possible, corroborate informant tips through independent investigation.
2. If informant tips form probable cause to arrest or search, the officer involved must be prepared to justify to the court why the informant is credible and his or her information reliable.
  - a. If no reason requires the informant's identity to be kept confidential, the officer may give the informant's name in the affidavit or let the informant fill in an affidavit himself. There is no reason not to disclose the informant's name if he or she is willing to testify in court.
  - b. When referring to unnamed informants, officers must rely on a magistrate to make a common-sense decision whether, given the veracity and basis of knowledge of informants supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place. If an officer relies on an informant's information for proving probable cause, in the affidavit he or she shall allege
    - (1) the facts from which the informant concluded that the thing to be searched for is probably on the person or premises to be searched; and,
    - (2) based on the totality of the circumstances, the facts from which the officer concluded that
      - (a) the informant was credible; or
      - (b) the information furnished by the informant was reliable.
3. Informant reliability may be established by the following considerations:
  - a. The informant has given reliable information in the past.
  - b. The informant is a private citizen whom the officer knows or who has a reputation for truthfulness.

- c. The informant states that he or she has participated to some extent in the illegal activity.
  - d. The information that one informant gives is corroborated by another informant.
  - e. The information given by the informant is corroborated by police surveillance.
4. Informants shall not take and the department shall not condone any actions that may be deemed entrapment.